

Department of Veterans Affairs

§ 13.102

upon review of the evidence of record, provided a specific finding is made in writing that it was clearly and unmistakably erroneous.

(2) The Veterans Services Officer may revise a previous determination upon receipt of new evidence.

(b) *Under Secretary for Benefits.* Upon request for further review by the dependent parent, the Under Secretary for Benefits or designee will review and may revise the determination of the Veterans Services Officer as to the amount to be paid from Personal Funds of Patients for the support of the dependent parent, predicated upon need.

(Authority: 38 U.S.C. 501)

[40 FR 54249, Nov. 21, 1975]

§ 13.100 Supervision of fiduciaries.

(a) *Federal fiduciaries.* In Federal fiduciary cases, the Veterans Services Officer may, when he or she deems it necessary for the protection of the beneficiary's interests:

(1) Require an accounting, formal or informal, of Department of Veterans Affairs benefits paid.

(2) Terminate the appointment of a Federal fiduciary and appoint a successor Federal fiduciary.

(Authority: 38 U.S.C. 5502)

(b) *Court-appointed fiduciaries.* In court-appointed fiduciary cases, the Veterans Services Officer will take such informal action as may be necessary to assure that the needs of the beneficiary are provided for and Department of Veterans Affairs benefits are prudently administered and adequately protected.

(Authority: 38 U.S.C. 501)

(c) *Unsatisfactory conditions.* In any case where a fiduciary fails to render a satisfactory account or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are illegal or inequitable or in excess of those allowed by law, or has failed to use Department of Veterans Affairs funds for the benefit of the beneficiary or the beneficiary's dependents, or has otherwise failed or neglected to properly execute the duties of his or her

trust, and informal efforts by the Veterans Services Officer to correct the situation prove unsuccessful, the case will be referred to the Regional Counsel. In such cases the Veterans Services Officer may have all Department of Veterans Affairs benefits suspended.

(Authority: 38 U.S.C. 5502)

(d) *Misappropriation, embezzlement or violation of Federal statutes.* When the evidence indicates a prima facie case of misappropriation, embezzlement or violation of the Federal statutes, the matter will be submitted to the Regional Counsel for review and, if appropriate, the Regional Counsel's referral to the U.S. Attorney.

(Authority: 38 U.S.C. 6101)

[40 FR 54249, Nov. 21, 1975]

§ 13.101 Management and use of estates of minors.

Department of Veterans Affairs benefits payable in behalf of minors should be used for their benefit. Such funds should be expended only to the extent the person or persons responsible for their needs are unable to provide for them, except those derived from payments under 38 U.S.C. ch. 35.

(Authority: 38 U.S.C. 501)

[28 FR 10751, Oct. 5, 1963]

§ 13.102 Accountability of legal custodians.

(a) *Institutionalized veterans without spouse or child.* The legal custodian of VA benefits of an incompetent veteran who has neither spouse nor child and who is being furnished hospital treatment or institutional or domiciliary care by the United States or a political subdivision thereof, will account upon request to VA for funds received from VA for the beneficiary and will submit a statement of all other income received and the total assets from any source held for the beneficiary.

(b) *All other beneficiaries.* Compliance with the agreement as to benefit use and any authorized modifications due to changed need, proof of existence of funds surplus to immediate needs and